

PROGRAM HIGHLIGHTS

65

The previous section provided a detailed look at seismic retrofit programs in several communities throughout the State of California. In this section we would like to give you a glimpse of some additional techniques used by jurisdictions throughout the State to promote retrofitting of privately-owned hazardous structures.

TOWN OF ARROYO GRANDE

POPULATION: 14,400
URMS: 20

The Town Council of Arroyo Grande instructed the building department to work with the owners of identified potentially hazardous buildings to retrofit such structures under a "reasonable" timeline. The city originally set a deadline of three to five years for completion of the work, but in recognition of the recent economic downturn, and in the spirit of cooperation on which the program is founded, the city building department is being **flexible with its deadline** for compliance.

The Building Department also provides **reduced permit fees** to owners performing retrofit work. Instead of charging building permit fees on the basis of the valuation of the work, a valuation which the Building Inspector feels is difficult for anyone to make, the city estimates how many inspections it will need to make during the construction process and **charges fees based on the number of inspections and other handling costs the city will incur**. The building department also **allows the continuance of non-conforming uses and waives other aspects of updated zoning regulations** such as parking requirements.

CONTACT

John A. Richardson Chief Building Inspector (805) 489-1303 x109 or 104

CITY OF BERKELEY

67

POPULATION: **106,000**

URMS: **517**

The City of Berkeley instituted an additional **1/2% transfer tax on property sales** which can either be paid to the city or used by the owner to pay for seismic retrofit work on the building. The city believes owners would rather see the monies go into their properties than into the city's tax coffers. The city estimates that on single-family homes the 1/2% tax would help cover the cost of such improvements as bolting structures to foundations, sheer wall improvements, chimney reinforcement and the like. The city also **waives permit fees** on seismic retrofit projects.

The City of Berkeley ordinance imposes a mandatory unreinforced masonry building (URM) retrofit program. Included in the ordinance is a requirement that owners of such buildings **post a clearly visible warning inside the main entrance of the building** stipulating as follows: "This is an unreinforced masonry building, which under State of California law, constitutes a severe threat to life safety in the event of an earthquake of moderate to high magnitude."

CONTACTS

Harry Attri	Chief of Codes and Inspections	(510) 644-6526
Sonali Bose	Finance Director	(510) 644-6476
Alan Goldfarb	Councilmember	(510) 644-6399

CITY OF INGLEWOOD

POPULATION: 112,500

URMS: 60

Inglewood has developed a program which presents **two options for reimbursement of construction costs** to property owners performing retrofit repairs. An owner may choose either to receive (i) reimbursement of up to \$1,000 of the cost of preparation of plans and engineering studies and (ii) 25% of the actual cost of the required improvements **OR** (iii) reimbursement of up to \$3,000 of the actual cost of engineering studies and plan preparation, (iv) 50% of any cost in excess of \$3,000, and (v) the actual cost of plan checking, building permits and related taxes and fees. The city funds this program with CDBG monies. The predominant choice for reimbursement is the second program. Even though the first reimbursement option (i and ii) could potentially result in a larger rebate, property owners avoid it because of the Davis-Bacon Wage laws with which they would have to comply if they use CDBG monies to pay for construction. Owners generally feel that the additional cost associated with compliance would not be offset by the larger rebate. The city estimates the reimbursements will range from a minimum of \$6,000 per building to a maximum of \$12,000 per building. The seismic retrofit program is overseen by two departments: the Building Department handles the technical aspects of the program while the Department of Community Development and Housing handles the financial components.

CONTACTS

Jose Alvarez	Building Department	(310) 412-5294
Dianna Joe	Dept. of Community Development and Housing	(310) 412-5221

CITY OF LA VERNE

69

POPULATION: 31,100

URMS: 2

The City of La Verne has developed a program, to be funded with redevelopment agency monies, which will provide **property owners with a grant of up to 50% of cost** of engineering and construction for retrofitting. The city set a 5 year goal to complete the repairs, hoping to be able to fund 2 buildings a year at a cost of approximately \$50,000. However, the number of structures retrofitted is dependent on the funds available each year. The city hopes that in addition to the seismic repairs, owners will be encouraged to do facade renovations/restorations.

CONTACT

Linda Christianson

Community Development Department

(714) 596-8706

CITY OF SAN DIEGO

POPULATION: 1,144,000

URMS: 1,050

The City of San Diego is unique when compared to the other communities pursuing seismic retrofit programs because it is currently not located in Seismic Zone 4 and therefore is not subject to SB 547, the "URM Law." Approximately 6 years ago, San Diego began a **voluntary review of the unreinforced masonry buildings in the community with the appointment of a City Manager's Committee on the seismic retrofit of older buildings.** Initially, the Building Inspection Department proposed a mandatory retrofit ordinance to the City Manager's Committee. It was soon obvious that such an ordinance would raise immediate opposition from property owners and would certainly not be approved by the city council. The City Manager's Committee is now considering an alternative voluntary ordinance with some mandatory aspects. There is disagreement between structural engineers, local architects and property owners on how, or even whether, the issue should be addressed. There is also some local controversy regarding the possibility that San Diego may be reclassified so it is included in Seismic Zone 4. San Diego does have an existing **requirement that may cause property owners to retrofit a structure when it changes use or occupancy to one more hazardous than the existing use.** There has been some voluntary seismic retrofit work done in San Diego by both private owners and public agencies. The city is interested in, but has been unable to identify, a source of funds which would allow it to make construction grants to owners of hazardous structures.

CONTACTS

Jean Libby	Building Inspection Department	(619) 236-7338
Peter López	Building Inspection Department	(619) 236-6087

<u>POPULATION:</u>	<u>782,000</u>
<u>URMS:</u>	<u>150</u>

The City of San Jose has identified approximately 150 privately-owned unreinforced masonry buildings (URMs) city-wide. Most of the buildings are almost exclusively commercial/retail, with a few providing low-cost housing on the upper floors. Many of the buildings are on the City Historic Resources Inventory. About half of the URMs are located in redevelopment areas. Fifty five of those, housing 121 businesses, are included in the redevelopment agency's retail focus area. San Jose has developed a multi-level set of programs to encourage retrofitting.

San Jose is **exempting permit fees** on retrofit projects, a program expected to cost the city approximately \$250,000 and the redevelopment agency about \$50,000. San Jose is also offering **design grants** to owners, a program to which the city and redevelopment agency are each contributing up to \$1 million. The city council has approved procedures for forming a **Special Assessment district** to provide long-term, market-rate financing for retrofits.

For owners of retail structures in the redevelopment agency's focus area, San Jose has developed **two grant programs to offset construction costs** at a cost to the redevelopment agency of \$4.6 million over 4 years. Retail buildings in the focus area have been ranked based on 4 criteria: historic significance, consistency with the downtown strategy plan, location within the retail focus area, and key building features such as strategic retail value, condition of building, retail desirability, building owners commitment, and tenant status. Owners of buildings receiving qualified ranking will be eligible for the basic grant. Owners of buildings receiving the highest ranking will be eligible for an additional grant, in exchange for which they will be asked to make a corresponding amount of tenant improvements. The agency also is developing a **tenant assistance program** for commercial and residential tenants located in retrofit assisted buildings.

San Jose also assigned one individual to act as **full time liaison with URM owners and the community**. The Liaison is a part of the City Manager's Department Office of Emergency Services. The Liaison provides information and answers questions about the programs offered by the city and the redevelopment agency, interacting with owners, tenants, the media, and other city departments. The Liaison also supplies the city council and the public with information on the progress which has been made towards retrofitting each of the identified buildings. The Liaison is expected to take a particularly active role in development of the financing district, working with the financing team, and explaining the program to and soliciting feedback from URM owners.

CONTACTS

Robert "Pi" Silverstein	Building Retrofit Program Liaison	(408) 277-4735
Noel Ameele	Redevelopment Agency Development Officer	(408) 277-4744

POPULATION: **87,500**

URMS: **12**

The City of San Mateo adopted a mandatory retrofit ordinance in January, 1990. San Mateo based its ordinance on the Los Angeles model, simplifying it by creating only 2 hazard categories and changing some of the time limits. If an owner installs anchors he or she can take up to 8 years to complete the retrofit; otherwise, the owner must complete retrofit within 3 years. The majority of the buildings affected by this ordinance have historic designations or are contributors to a proposed historic district.

The ordinance also directly addresses the conversion of unused second floors in commercial buildings to residential use. In San Mateo's commercial district there is also an attempt to tie some storefront improvement to retrofit projects. Both second-floor conversion and storefront projects are handled through San Mateo's Housing and Economic Development Division. Assistance in the form of grants and loans is made available for use towards the retrofit of buildings participating in these programs.

Of San Mateo's 12 unreinforced masonry buildings (URMs), 1 has been retrofitted, 3 are presently undergoing retrofit construction, and engineering plans have been prepared for the remaining structures.

CONTACTS

Fred Cullum	Chief Building Officer	(414) 377-3390
Bob Muehlbauer	Housing and Economic Development	(415) 377-3393

CITY OF VACAVILLE

POPULATION: 73,000
URMS: 20

The City of Vacaville has established the "Key Building Loan Program," a **3%, 25 year loan program** to finance the cost of seismic retrofit. A property owner can also receive a 50% matching loan for tenant improvements. The total amount of these loans is based on underwriting criteria which include a loan-to-value determination, setting a limit on total debt on the structure of up to 80% of the estimated post-rehabilitation property value. The city has an associated **facade loan program** providing up to \$15,000 worth of funding for facade renovation. These programs are paid for out of redevelopment funds through incremental tax revenues, and therefore are limited to those buildings located in the redevelopment area.

CONTACT

David Gouin

Office of Housing and Redevelopment (707) 449-5161

Local land use controls can be used to help reduce earthquake hazards. Incentives as well as controls on changes in building occupancy can complement both mandatory and voluntary unreinforced masonry building (URM) retrofitting ordinances. Typically, zoning is viewed in negative terms by many building owners because they perceive the emphasis is "thou shall not" Planning Commissions and zoning administrators often reinforce this perception during the development review process, and public-private partnerships rarely are fostered through zoning. However, this relationship can change if zoning ordinances are used in a positive manner to implement General Plan policies by offering bonuses and other types of incentives to achieve specific public purposes. Notable examples include the density bonuses for affordable housing and transfer of development rights for historic preservation. Lessons learned from these programs may help local governments design similar initiatives to encourage property owners to retrofit and upgrade their hazardous buildings.

Where potential funding sources are limited and, due to bond issuance costs, the advantages of municipal borrowing are perceived as not that much more attractive than private credit, local governments may want to explore how zoning mechanisms can be structured to create specific incentives for retrofitting seismically-unsafe structures. In the preceding chapters, the CASE STUDIES and PROGRAM HIGHLIGHTS show that funding incentives alone may not be sufficient to ensure widespread program participation. Time limits on retrofitting have proven to be effective, particularly when combined with priority ranking systems. Any and all programs can be complemented by zoning incentives, which also could have time limits attached to them in order to reinforce the need to act.

TYPES OF INCENTIVES

As part of a voluntary retrofit program, or to make a mandatory upgrading program more attractive, five general types of incentives to facilitate seismic upgrading of URMs and other potentially hazardous buildings may be appropriate for local zoning ordinances:

- Density/intensity bonuses;
- Transfer of development rights;
- Reduction in development standards;
- Relief from nonconforming provisions; and
- Restrictions on new occupancy of a potentially hazardous URM or other potentially hazardous building.

Each of these incentives is described more specifically below; choice of the right "incentive package" should be based on local conditions and needs. To show how these provisions might be combined into a comprehensive package, an approach to implementing a zoning incentive program is attached. This can be used as a guide in designing local programs.

DENSITY/INTENSITY BONUSES

Where a number of URMs contribute to the historical or architectural character of a district or area, a city may want to offer specific increases in the maximum allowable building density or intensity to help offset the added costs of seismic upgrades. To encourage affordable housing, for example, the State requires that a 25% density bonus be provided, recognizing that the cost of providing such housing is greater than the cost of providing market-rate housing. Similarly, a number of communities allow taller or larger buildings if pedestrian amenities, such as plazas, are provided, or if parking is placed underground.

Within each zoning district, similarly-situated properties need to be equally treated so such provisions are not considered "spot zoning." To provide a strong legal foundation for this type of incentive, a community's General Plan policies should specifically identify the purposes to be achieved by a density/intensity bonus program (e.g. "to encourage seismic upgrades and conserve and enhance the community's historic and architectural resources"). The actual standards that would apply should be based on construction cost analysis and urban design and planning studies. As a starting point, local planners should consult the State of California Seismic Safety Commission's *Guidebook to Identify and Mitigate Seismic Hazards in Buildings*. (See: CONTACTS)

A density/intensity incentive program is more likely to work only where the base zoning "envelope" does not provide for substantial development potential but, instead, is geared to maintaining the existing scale of development. Where the zoning envelope is generous, there would be little incentive to participate in the retrofitting program.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

The rationale for allowing a property owner to transfer unused development rights to another site is based on the concept that there is a public purpose to be achieved in requiring a seismic upgrade, and the existing use of the building may not generate sufficient income to justify the retrofitting costs. TDR is particularly suited to designated or certified historic

structures where no intensification of use is contemplated or even allowed. Restrictions of the right of transfer could be imposed. For example, transfers might only be allowed to adjacent lots within the same zoning district, or they could be permitted to any lot within the same zoning district, or to lots in specific zones where intensification of development is envisioned. The value of the development right to be transferred should approximate the cost of the retrofitting, so again careful analysis of construction costs is needed as a basis for designing an equitable and effective TDR program.

REDUCTION IN DEVELOPMENT STANDARDS

As with the preceding incentives, the objective of allowing for a minor reduction in certain specified building or site development standards would be to offset the added costs associated with retrofitting older structures. Seismically safe structures offer obvious public benefits, so there is some justification for allowing for reduced standards. Again, though, the challenge will be to tie the reduction in standards to the upgrade cost, so a "windfall" is not created, and after paying for the costs of upgrading, owners of URM's face the same requirements as owners of newer buildings.

Provisions for a reduction in development standards should include a specific requirement that the reduction is necessary to meet building standards for seismic safety. Specific restrictions could apply, such as no increase in building height. A time limit could be set, requiring applications for a reduction in development standards to be submitted within a specified period of time following adoption of the zoning incentive program, to coincide with State or local time limits for upgrading URM's.

RELIEF FROM NONCONFORMING PROVISIONS

Because many URM's were built before current zoning ordinances were adopted, they may not conform to the development standards that now apply to new construction. For example, there may not be any on-site parking and the setbacks may be less than are now required of new construction. Most zoning ordinances state that such nonconforming structures may not be altered or enlarged unless the alteration or enlargement will result in the elimination of the nonconformity.

To provide relief from these nonconforming provisions, the following exemptions may be made for alterations or enlargements for purposes of seismic upgrade.

- (1) Exterior or interior alterations or improvements may be allowed for purposes of retrofitting a structure occupied by a nonconforming use to meet building standards for seismic safety (*add appropriate reference to code or ordinance requirements*) without elimination of the nonconformity, provided there is no expansion of the use (*or an expansion not to exceed _____ percent*).
- (2) A nonconforming structure may not be altered or reconstructed so as to increase the discrepancy between existing conditions and the standards for front yard, side yard, rear yard, height of structure, driveways, or usable open space prescribed in the regulations for the district in which the structure is located unless such alteration or reconstruction is specifically required to meet local building standards for seismic safety (*add appropriate reference to code or ordinance requirement*).

NEW OCCUPANCY OF A URM
OR OTHER POTENTIALLY HAZARDOUS BUILDING

A zoning ordinance could require that any applicant for a discretionary zoning permit for occupancy of a URM, or of another potentially hazardous structure that does not conform to current building code standards for seismic safety, present a schedule for upgrading the structure to meet seismic standards within a stated period of time. The Planning Director could require that priority be given to upgrading that would reduce potential hazards which might affect adjacent structures or would reduce the risk of structural failure by improved bracing, foundation anchors or other types of retrofitting.

EXAMPLE OF AN INCENTIVE PROGRAM FOR
SEISMIC HAZARD UPGRADING USING ZONING INCENTIVES

This program is presented in outline form to illustrate an approach to designing provisions for zoning incentives that will encourage privately-funded seismic upgrading of existing URMs and other potentially hazardous structures.

- (1) Purpose. The purpose of the Seismic Hazard Upgrading Incentive Program for Unreinforced Masonry Buildings (URMs) and other potentially hazardous buildings is to provide financial incentives, consistent with State law (*requirement for mitigation programs*) to property owners and developers who undertake privately-funded upgrading of seismically hazardous structures.
- (2) Who May Apply for an Incentive. A property owner of a URM identified by the city as potentially hazardous, pursuant to _____ (*add applicable reference*) may request that the city grant a density or intensity (FAR) bonus or an incentive of financial value equivalent to such density/intensity bonus and a regulatory concession or incentive.
- (3) Types of Incentives. This section does not require the provision of direct financial incentives to finance seismic upgrading, but does provide for waiver of fees or dedication requirements. The following incentives and regulatory concessions or incentives are intended to ensure that the upgrading of seismically hazardous structures can be undertaken at a reduced cost:
 - (A) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission, including, but not limited to, a reduction in setback and square-footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.
 - (B) An increase in the maximum allowable density and/or intensity of land use, not to exceed _____ percent of the limit established by the base zoning district.
 - (C) Approval of a transfer of development rights to _____ (*specify whether the unused development rights may be transferred only to adjacent lots on the same block, to sites within the same district or to other sites or zoning districts specifically identified on the Zoning Map or in the General Plan*).

(The development rights that may be transferred could be limited to the "unused" rights on the site, and the ordinance should specify that restrictions on future development are officially recorded and bind future owners.)

- (D) Approval of mixed use zoning in conjunction with a development project if commercial, office, industrial, or other land uses will reduce the costs of a seismic upgrade for an existing structure and if the commercial, office, industrial, or other land uses are compatible with the upgrading project and the existing or planned development in the area where the proposed upgrading will take place.
 - (E) Waiver of fees for zoning permits, site plan review, building permits and *(specify other types of permits)*.
 - (F) Other regulatory incentives or concessions proposed by the developer or the city, which result in identifiable cost reductions.
- (4) Seismic Upgrade Incentive Agreement Required. After City Council approval of a request of incentives, the property owner shall be required to enter into an agreement with the city to guarantee completion of the proposed seismic upgrade. This Seismic Upgrade Incentive Agreement shall include, but not be limited to, the following provisions:
- (A) The components of the seismic upgrade shall be specified.
 - (B) The specific incentives that the city will make available to the property owner and any conditions pertaining to them shall be described.
 - (C) A commitment that seismic upgrade will be completed within a specified period of time. Security or compliance with these provisions shall be a promissory note in the amount of _____ percent of the construction costs, but not less than \$_____, secured by a deed of trust against the property.

Michael V. Dyett, AICP, is founder of Blayney Dyett Greenberg, Urban and Regional Planners, San Francisco, California.